

Non -Final

This office action is in response to applicant's RCE filed on 12/16/11.

An updated search has been performed, and new prior art has been cited in this office action.

Response to applicant's arguments

Applicant's arguments with respect to claims 30, 51 and 52 have been considered but are moot in view of the new ground(s) of rejection.

35 U.S.C. 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 32, 33, 35 – 37 and 50 - 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. Pub. No. 2005/0058154) in view of Dick et al. (U.S. Patent No. 8,023,463).

With respect to claims 30, 51 and 52 the Lee et al. reference teaches transmitting a data packet from the mobile terminal to the base station via a first data channel ([0122] – The reverse supplemental channel 1 is the first channel), receiving a feedback message from the base station at the mobile terminal, wherein the feedback message indicates whether the data packet has been successfully received by the base station ([0124] – A NACK is received from the receiving end to the transmitting end), and in case the feedback message indicates that the data packet has not been received successfully, transmitting the retransmission data packet from the mobile terminal to the base station via a second data channel ([0122] and [0131] – data packet is retransmitted through a reverse supplemental channel 2, based on the NACK), wherein a transmission time interval of the first data channel is smaller than a transmission time interval of the second data channel ([0134 – 0136]– different data rates that may be used for the initial transmission, also known as the newly transmitted data over the reverse supplemental channel 1, and retransmission data, over the reverse supplemental channel 2). The Lee et al. reference does not teach wherein the method further comprises soft combining each retransmission data packet with the data packet at the base station. The Dick reference teaches wherein the method further comprises soft combining each retransmission data packet with the data packet at the base station (column 2, lines 7-18 – a data packet transmitted, but not acknowledged previously, is combined with a retransmission of the same data packet transmitted in response to the NACK). Thus, it would

have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined the references Lee et al. in view of Dick et al. to incorporate wherein the method further comprises soft combining each retransmission data packet with the data packet at the base station into the claimed invention. The motivation for wherein the method further comprises soft combining each retransmission data packet with the data packet at the base station is for achieving efficiency (column 2, line 17 – Dick et al.).

With respect to claim 32, the Lee et al. reference teaches determining the transmission power for a retransmission of the data packet, in case the feedback message indicates that the data packet has not been received successfully ([0134] – the retransmission power can be adjusted), and wherein the retransmission data packet is transmitted at a transmission power lower than the transmission power of the transmitted data packet ([0136] – allowable data rate is 153.6 kbps, however 9.6 kbps is allocated to the code symbols for the data to be transmitted on retransmission).

With respect to claim 33, the Lee et al. reference teaches subsequently reducing the transmission power for subsequent retransmission data packets that are sent for the unsuccessfully received data packet ([0132 – 0134] – subsequent reduction of transmission power can be implemented or adjusted as well).

With respect to claim 35, the Lee et al. reference teaches selecting in the mobile terminal the transmission power for the transmission of the retransmission data packet based on or considering at least one of a measured channel quality, power control commands received from the base station, and an additional diversity and processing gain obtained by using a longer transmission time interval on the second data channel ([0132 – 0133]).

With respect to claim 36, the Lee et al. reference teaches wherein the retransmission data packet and the transmitted data packet comprise the same payload ([0129]).

With respect to claim 37, the Lee et al. reference teaches wherein the retransmission data packet is transmitted by the mobile terminal after a predetermined time span upon having received said feedback message ([0136]).

With respect to claim 50, the Lee et al. reference teaches wherein the data packet and the retransmission data packet are transmitted via dedicated transport channels ([0249]).

Allowability

1. Claims 38-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enam Ahmed whose telephone number is 571-270-1729. The examiner can normally be reached on Mon-Fri from 8:30 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman, can be reached on 571-272-3644.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Scott T Baderman/

Supervisory Patent Examiner, Art Unit 2114